

FIRST REGULAR SESSION

# HOUSE BILL NO. 512

## 97TH GENERAL ASSEMBLY

---

INTRODUCED BY REPRESENTATIVES ELLINGER (Sponsor), PACE, ENGLISH, LAFAVER,  
KELLY (45), WALTON GRAY, MEREDITH AND SMITH (85) (Co-sponsors).

0382L.011

D. ADAM CRUMBLISS, Chief Clerk

---

### AN ACT

To repeal sections 195.202 and 195.233, RSMo, and to enact in lieu thereof two new sections relating to controlled substances, with penalty provisions.

---

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 195.202 and 195.233, RSMo, are repealed and two new sections  
2 enacted in lieu thereof, to be known as sections 195.202 and 195.233, to read as follows:

195.202. 1. Except as authorized by sections 195.005 to 195.425, it is unlawful for any  
2 person to possess or have under his **or her** control a controlled substance.

3 2. Any person who violates this section with respect to any controlled substance except  
4 thirty-five grams or less of marijuana or any synthetic cannabinoid is guilty of a class C felony.

5 3. Any person who violates this section with respect to not more than thirty-five grams  
6 of marijuana or any synthetic cannabinoid is guilty of a [class A] misdemeanor **for which the**  
7 **punishment shall be a fine in an amount not to exceed two hundred fifty dollars; unless**  
8 **such person:**

9 (1) **Has been found guilty of a felony within the preceding ten years;**

10 (2) **Has been found guilty of a class A misdemeanor other than possession of thirty-**  
11 **five grams or less of marijuana or any synthetic cannabinoid or possession of marijuana**  
12 **drug paraphernalia under section 195.233, within the preceding five years;**

13 (3) **Has been found guilty of possession of thirty-five grams or less of marijuana or**  
14 **any synthetic cannabinoid or possession of marijuana drug paraphernalia under section**  
15 **195.233 on two or more prior occasions within the preceding five years; or**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16           **(4) Is arrested for any felony or any misdemeanor other than possession of thirty-**  
17 **five grams or less of marijuana or any synthetic cannabinoid or possession of marijuana**  
18 **drug paraphernalia under section 195.233, arising from the same set of facts and**  
19 **circumstances;**

20

21 **in which case such person is guilty of a class A misdemeanor.**

22           **4. Whenever any law enforcement officer suspects any person has violated the**  
23 **provisions of subsection 3 of this section other than those persons excluded under**  
24 **subdivision (1), (2), or (3) of subsection 3 of this section, such person shall only be issued**  
25 **a summons to appear in court. Such person shall not be arrested, taken into custody for**  
26 **any purpose, required to post a bond, or detained for any reason other than the time it**  
27 **takes to issue such person a summons to appear. In addition no such person, if found**  
28 **guilty, shall be incarcerated or suffer the loss of a driver's license and there shall be a**  
29 **strong presumption that the proper disposition of any such case shall be to suspend the**  
30 **imposition of sentence and to require community service or controlled substance**  
31 **counseling or both.**

          195.233. 1. It is unlawful for any person to use, or to possess with intent to use, drug  
2 paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert,  
3 produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest,  
4 inhale, or otherwise introduce into the human body a controlled substance or an imitation  
5 controlled substance in violation of sections 195.005 to 195.425.

6           **2. A person who violates this section by using or possessing with intent to use any**  
7 **drug paraphernalia except marijuana drug paraphernalia is guilty of a class A**  
8 **misdemeanor, unless the person uses, or possesses with intent to use, the paraphernalia in**  
9 **combination with each other to manufacture, compound, produce, prepare, test or analyze**  
10 **amphetamine or methamphetamine or any of their analogues in which case the violation of this**  
11 **section is a class D felony.**

12           **3. A person who violates this section by using or possessing with intent to use any**  
13 **marijuana drug paraphernalia is guilty of a misdemeanor for which the punishment shall**  
14 **be a fine, in an amount not to exceed two hundred fifty dollars; unless such person:**

15           **(1) Has been found guilty of a felony within the preceding ten years;**

16           **(2) Has been found guilty of any misdemeanor other than possession of thirty-five**  
17 **grams or less of marijuana or any synthetic cannabinoid under section 195.202 or**  
18 **possession of marijuana drug paraphernalia, within the preceding five years;**

19           **(3) Has been found guilty of possession of thirty-five grams or less of marijuana or**  
20 **any synthetic cannabinoid under section 195.202 or possession of marijuana drug**  
21 **paraphernalia on two or more prior occasions within the preceding five years; or**

22           **(4) Is arrested for any felony or any misdemeanor other than possession of thirty-**  
23 **five grams or less of marijuana or any synthetic cannabinoid under section 195.202 or**  
24 **possession of marijuana drug paraphernalia, arising from the same set of facts and**  
25 **circumstances;**

26

27 **in which case such person is guilty of a class A misdemeanor.**

28           **4. Whenever any law enforcement officer suspects any person has violated the**  
29 **provisions of subsection 3 of this section other than those persons excluded under**  
30 **subdivision (1), (2), or (3) of subsection 3 of this section, such person shall only be issued**  
31 **a summons to appear in court. Such person shall not be arrested, taken into custody for**  
32 **any purpose, required to post a bond, or detained for any reason other than the time it**  
33 **takes to issue such person a summons to appear. In addition no such person, if found**  
34 **guilty, shall be incarcerated or suffer the loss of a driver's license and there shall be a**  
35 **strong presumption that the proper disposition of any such case shall be to suspend the**  
36 **imposition of sentence and to require community service or controlled substance**  
37 **counseling or both.**

✓